Document 51

Filed 05/15/2009

Page 1 of 5

Tel: (248) 358-4400; Fax (248) 358-3351

Case 2:09-cv-00270-MJP

"defendants"), regularly and continuously engage in substantial sales and other business transactions in the Western District of Washington, and have sold infringing products and/or committed infringing acts in this district. The United States District Court for the Western District of Washington therefore has in personam jurisdiction over the defendants.

II. THE PARTIES

- 4. Plaintiff, Ancora Technologies, Inc., is a Delaware corporation, having a place of business at 14014 Moorpark, #215, Sherman Oaks, CA 91423.
- 5. Upon information and belief, defendant Dell, Inc. is a Delaware corporation having a place of business at One Dell Way, Round Rock, Texas 78682.
- 6. Upon information and belief, defendant Hewlett Packard Company, is a Delaware corporation having a place of business at 3000 Hanover Street, Palo Alto, California 94304.
- 7. Upon information and belief, defendant Toshiba America Information Systems, Inc. has a place of business at 9740 Irvine Boulevard, Irvine, California 92618.
- 8. Upon information and belief, defendant Microsoft Corporation has a place of business at One Microsoft Way, Redmond, Washington 98052.

III. <u>BACKGROUND</u>

- 9. On June 25, 2002, U.S. Patent No. 6,411,941 ("the '941 patent") entitled "Method Of Restricting Software Operation Within A License Limitation" was duly and legally issued. (See Exhibit A, U.S. Patent No. 6,411,941.)
 - 10. Ancora is the owner of all right, title and interest in the '941 patent.

IV. COUNT I - PATENT INFRINGEMENT

11. Ancora realleges paragraphs 1-10 as set forth fully herein.

- 12. Defendants have made, used, offered for sale, imported and sold in the United States, and continue to make, use, offer for sale, import and sell in the United States products and/or processes which infringe the '941 patent, induce others to infringe, contributorily infringe the '941 patent, and/or have otherwise violated other 35 U.S.C. § 271 through their activities in relation to OEM Activation, a/k/a OA 2.0, System Locked PreInstallation 2.0, or SLP 2.0.
- 13. Ancora has suffered damages as a result of the defendants' activities in violation of 35 U.S.C. § 271, and will continue to suffer such damages as long as those infringing activities continue.
 - 14. Defendants' infringement is willful, wanton, and deliberate.
- 15. Ancora has no adequate remedy at law. Unless enjoined by this Court, the defendants will continue such acts in violation of 35 U.S.C. § 271 causing Ancora substantial and irreparable damage.

V. <u>DEMAND FOR RELIEF</u>

Accordingly, Ancora respectfully demands that this Court enter judgment:

- A. Preliminarily and permanently enjoining and restraining defendants, their officers, directors, employees, agents, servants, successors and assigns, and any and all persons acting in privity or in concert with the defendants, from further infringement of the '941 patent;
- B. Awarding Ancora his damages, together with prejudgment interest and costs, and increasing those damages to three times the amount found or assessed as provided by 35 U.S.C. § 284;
- C. Declaring this an exceptional case within the meaning of 35 U.S.C. § 285, and awarding Ancora his reasonable attorney's fees and costs and disbursements in this action; and
- D. Granting to Ancora such other and further relief as this Court deems reasonable.

VI. <u>DEMAND FOR JURY TRIAL</u> Ancora respectfully demands a trial by jury of any and all issues triable of right by a jury

4

1

2

3

5

6

7

9

10

11

12

13

14

15

8

Dated: May 15, 2009

in the above-captioned action.

Respectfully submitted,

BROOKSKUSHMAN P.C

MARK A. CANTOR (MI Bar P32661) Pro Hac Vice JOHN S. LeROY (MI Bar P61964) Pro Hac Vice MARC LORELLI (MI Bar P63156) Pro Hac Vice

1000 Town Center, Twenty-Second Floor Southfield, Michigan 48075

Telephone: (248) 358-4400 Facsimile: (248) 358-3351 mcantor@brookskushman.com jleroy@brookskushman.com mlorelli@brookskushman.com

16 17

18

19

20

21

22

23

24

25

26

27

28

CERTIFICATE OF ELECTRONIC SERVICE

- I, Sandra Davis, swear under penalty of perjury that under the laws of the State of Washington to the following:
 - 1. I am over the age of 21 and not a party to this action.
- 2. On the 15th day of May, 2009, I caused the preceding document to be served on counsel of record by ECF delivery through the CM/ECF System.

Chad S. Campbell (cscampbell@perkinscoie.com) Scott S. Minder (sminder@perkinscoie.com) David S. Laspaluto (dlaspaluto@perkinscoie.com) Perkins Coie Brown & Bain 2901 N. Central Avenue, Suite 2000 Phoenix, AZ 85012-2788

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

Arthur W. Harrigan, Jr.
arthurh@dhlt.com
Christopher T. Wion
chrisw@dhlt.com
Danielson Harrigan Leyh & Tollefson LLP
999 Third Avenue
Suite 4400
Seattle, Washington 98104

Lamb

Attorneys for Defendants

Sanara D. Davis

AMENDED COMPLAINT OF ANCORA TECHNOLOGIES, INC.

Case Number: 2:09-cv-00270-MJP

BROOKS KUSHMAN P.C. 1000 Town Center, Twenty-Second Floor Southfield, Michigan 48075 Tel: (248) 358-4400; Fax (248) 358-3351